

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Criminal No. 1:18-cr-00083-TSE
v.)	
)	Judge T. S. Ellis, III
PAUL J. MANAFORT, JR.,)	
)	
Defendant.)	

**DEFENDANT PAUL J. MANAFORT, JR.’S MEMORANDUM OF LAW IN
SUPPORT OF HIS MOTION FOR LEAVE TO FILE EXHIBITS TO MOTIONS
TO SUPPRESS UNDER SEAL PURSUANT TO LOCAL CRIMINAL RULE 49,
SUBSECTIONS (D) AND (E)**

Defendant Paul J. Manafort, Jr., by and through counsel, submits this memorandum of law in support of his motion for leave to file exhibits to motions to suppress under seal permanently pursuant to Local Criminal Rule 49, subsections (D) and (E).

On April 30, 2018, the defendant filed motions to suppress, memoranda of law, and exhibits. *See* Dkt. Nos. 45-48. Out of an abundance of caution, the defendant filed redacted versions of the search warrants, affidavits, returns, inventories, and lease agreement, as exhibits to preserve the public’s access to judicial records under Local Criminal Rules 49 and 57.1, while also protecting the defendant’s privacy and paying deference to the protective order that the U.S. District Court for the District of Columbia had entered in the companion case (*United States v. Paul J. Manafort, Jr.*, 1:17-cr-201, Dkt. # 46).

While the defendant filed redacted exhibits as a procedure short of sealing that would suffice to protect the defendant’s privacy in accordance with Local Criminal Rule 49, the defendant seeks to provide the Court with the fullest possible context for the

motions by seeking leave to file these exhibits under seal and free of defense redactions. Unfortunately, these exhibits still bear the Office of Special Counsel's redactions, as the parties are currently litigating the defendant's motion to compel the Office of Special Counsel to turn over unredacted search and seizure warrant affidavits relating to Mr. Manafort. (*United States v. Paul J. Manafort, Jr.*, 1:17-cr-201, Dkt. ## 242, 253). Should the Court wish to review fully-unredacted versions of these materials, they are in the Court's files at case numbers 1:17SW294 (storage unit) and 1:17SW449 (residence).

The Supreme Court has recognized that the public has a right of access to virtually all proceedings and records in a criminal case. See *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980) and *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596 (1982) (criminal trials); *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501, 511, 513 (1984) ("*Press-Enterprise I*") (voir dire and transcripts); *Waller v. Georgia*, 467 U.S. 39 (1984) (suppression hearings); *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1, 15 (1986) ("*Press-Enterprise II*") (preliminary hearings).

At the same time, there are sometimes competing interests that are sufficient to outweigh the public's right of access. "The presumption of openness may be overcome only by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest." *Press-Enterprise I*, 464 U.S. at 510; *Globe Newspaper Co.*, 457 U.S. at 606-07. In this case, there is an overriding interest in protecting Mr. Manafort's privacy by keeping sealed personal information like his home address, the precise location of his storage unit, passwords to his electronic devices, and prejudicial allegations that are unrelated to the issues in the suppression motions. For this

reason, the defendant filed the exhibits with redactions and now seeks to file the less-redacted versions under seal.

For the foregoing reasons, the defendant respectfully moves the Court to grant him leave to file the exhibits to his motions to suppress under seal pursuant to Local Criminal Rule 49, subsections (D) and (E).

Dated: May 11, 2018

Respectfully submitted,

s/ Kevin M. Downing
Kevin M. Downing (*pro hac vice*)
Law Office of Kevin M. Downing
601 New Jersey Avenue NW
Suite 620
Washington, DC 20001
(202) 754-1992
kevindowning@kdowninglaw.com

s/ Thomas E. Zehnle
Thomas E. Zehnle (VSB No. 27755)
Law Office of Thomas E. Zehnle
601 New Jersey Avenue NW
Suite 620
Washington, DC 20001
(202) 368-4668
tezehnle@gmail.com

s/ Jay R. Nanavati
Jay R. Nanavati (VSB No. 44391)
Kostelanetz & Fink LLP
601 New Jersey Avenue NW
Suite 620
Washington, DC 20001
(202) 875-8000
jnanavati@kflaw.com

Counsel for Defendant Paul J. Manafort, Jr.